



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,215	01/21/2004	Timothy Ford	055189-0012	2192
20572	7590	07/26/2005	EXAMINER	
GODFREY & KAHN S.C. 780 NORTH WATER STREET MILWAUKEE, WI 53202			MAY, ROBERT J	
			ART UNIT	PAPER NUMBER

2875

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/762,215

Applicant(s)

FORD ET AL.

Examiner

Robert May

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-110 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 93-95 and 97-109 is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-27, 31, 32, 35, 37, 52-59, 61-76, 78, 80, 84, 85, 90, 92 and 110 is/are rejected.
- 7) ☒ Claim(s) 11, 28-30, 33, 34, 36, 38-51, 60, 77, 79, 81-83, 86-89, 91 and 96 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

Claims 13-16 are objected to because of the following informalities: each claim recites ""surface-mounting" which is not consistent with the original terms "support-mounting" used in the base Claim 1 for the subject "face".

Claim 32 is objected to because of the following informalities: "said support-mounting surface" is inconsistent with subject "face" used in the base Claim 1.

Claim 33 is objected to because of the following informalities: the plural tense of "said anchoring elements" is not consistent with the singular tense used in the base Claim 1.

Claim 41 is objected to because of the following informalities: "wherein said wherein said" is redundant terminology.

Claims 58-59 are objected to because of the following informalities: "said cylindrical body" is missing "portion" as originally stated in Claim 57.

Claims 61-65 are objected to because of the following informalities: each claim recites ""surface-mounting" which is not consistent with the original terms "support-mounting" used in the base Claim 52 for the subject "face".

Claim 75 is objected to because of the following informalities: "said support-mounting surface" is inconsistent with subject "face" used in the base Claim 52.

Claims 74-83 are objected to because of the following informalities: "auxiliary member" and "auxiliary element" do not have consistent terms to identify the same part.

Art Unit: 2875

Claim 82 is objected to because of the following informalities: a misspelling occurs in the 2<sup>nd</sup> line of the claim, which recites "in movably mounted", the office construes this phrase to mean --is movably mounted--. Appropriate correction is required.

Claim 96 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 96 recites an auxiliary element that is movably mounted to the base plate and Claim 95 recites a base plate comprising an auxiliary element movably mounted thereto. The office fails to see the distinction between Claims 95 and 96. Furthermore, in Claim 96, "in" should be corrected as --is--.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 recites the limitation "surface mounting element" in the 1<sup>st</sup> line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 25 recites the limitation "said light receiving face" in the 1<sup>st</sup> line of the claim. There is insufficient antecedent basis for this limitation in the claim. It appears that Claim 25 should instead depend from Claim 24.

Claims 75-76 are indefinite because the limitations "said anchoring element" and "said anchoring elements" lack antecedent basis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 12-13, 17, 19-20, 24-25, 31-32, 35, 52-56, 61, 65-72, 74-75, 78 & 110 are rejected under 35 U.S.C. 102(b) as being anticipated by Herrick (US Pat. 4,998,187).

In regard to Claims 1-7, 12-13, 19-20, 24-25, 52-56, 61, 66, 68-72, & 110 Herrick discloses in Fig's 1 and 1A a light support with a base plate 12 with a concave (Col. 2, Line 51) support mounting face or lower surface 16 and three anchoring elements which are tapered (Col. 2, Line 56) in which both base plate lower surface and anchoring elements span the same surface 52 and each anchor element extends from the center of the base plate having apertures 58 for accommodating a fastening element 54 (Col 3, Lines 29-32). Furthermore, a lamp holder or light carrying plate 10 for receiving a lamp

Art Unit: 2875

28 is hingedly mounted to a pair of spaced apart members (46a & 46b) at one end of the plate 10 which has a, which is opposite to one anchoring element. The light carrying plate 10 has light carrying elements or strap members 30 for holding the lamp 28 (Col 3, Lines 10-13).

In regard to Claims 17,31-32,35, 65,67,74-75,78 Herrick discloses in Figure 5 that an additional or auxiliary mounting means such as VELCRO for attaching the light support to a helmet or hood (Col 3, Lines 49-53) is possible as well as other additional means such as adhesives and conventional snap in devices (Col. 3, Lines 58-60). Furthermore, the VELCRO is shown to span the same surface 52 defined by the base plate 12.

Claims 84-85, 90, & 92 are rejected under 35 U.S.C. 102(b) as being anticipated by Gary (US Pat. 5,249,108). Gary discloses in Figures 1-2 a light support with a base plate 12 and an anti tipping member or tab 30(Col 3, Lines 13-14) for increasing the frictional engagement between the adjacent layers in which the base plate 12 is inserted or anchored there between. A light carrying plate or face portion 14 is adapted to accommodate a lighting assembly is hingedly attached to the base plate 12 via a hinge assembly 16 at one end.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2875

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8-10, 14, 18, 57-59, 62, & 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view Ciesiun (US Pat. 6,618,906).

In regard to Claim 8, while Herrick discloses all of the claimed elements as recited in Claim 4, Herrick does not explicitly recite a cylindrical body portion which is pivotally mounted to base plate, however it is generally obvious to one of ordinary skill that a hinge is notoriously known to comprise a cylindrical element, therefore it would be generally obvious to one of ordinary skill to have a cylindrical member as part of the light plate element which is connected to the base plate.

In regard to Claims 9-10, & 57-59 Herrick does not disclose a cylindrical body portion with a series of ridges on the outer surface thereof disposed on the proximal end of the light carrying plate or a rib disposed at the proximal end receiving portion for interfering or engaging with the ridges of the cylindrical body. However, Ciesiun discloses in Fig. 1, a cylindrical body as part of a pivotal connection for a light support

Art Unit: 2875

apparatus with ridges 28 for engaging with a cooperating portion of the lighting apparatus to minimize movement when in operation (Col 3, Lines 33-37). It would generally be obvious to one ordinary skill to use a rib to engage with the ridges 28 to minimize or prevent movement of the lamp while in use.

In regard to Claim 14, 18, 62, & 73 Herrick does not disclose a strap member receiving aperture disposed on the base plate or surface mounting face, however, Ciesiun discloses in Figure 1 a strap receiving aperture 20 for mounting a lamp to a paintball mask which is disposed upon the base member 12. It is would be obvious to modify the teachings of Herrick by adding a belt receiving aperture in order to have a light support that could be easily attached or detached without having to remove fasteners in order to detach the light support. Therefore it would be obvious to one of ordinary skill to modify the light support of Herrick with the belt strap apertures of Ciesiun because it would provide for a support that could be easily attached or detached from a helmet or hood.

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view of Dugmore (US Pat. 6,457,838). While Herrick does not disclose a base plate comprising an auxiliary element having a strap-receiving aperture, Dugmore discloses in Figure 10 an auxiliary strap receiving plate 18 for attaching to the base plate 16 for enabling the light support to be suitable for a wide number of applications for a wide variety of classes of users that can be adapted for applications both on and off the body of the user (Col. 5, Lines 24-27). Therefore, it would be obvious to one of ordinary skill



Art Unit: 2875

in the art to modify the light support of Herrick with strap receiving apertures of Dugmore disposed on an auxiliary plate in order to provide for a light support which has a variety of uses for a variety of classes of users adapted for applications on and off the body of the user.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view Ciesiun as applied to Claims 8-10, 14,18, 57-59, 62, & 73 above and further in view of Yu (US Pat. 6,877,875). While Herrick does not disclose a light support where the support mounting face comprises a pad member, Yu discloses a foam pad 22 in Figure 2, which is generally known by one of ordinary skill to provide an acceptable level of comfort to the user when a head worn apparatus is used. Therefore, it would be obvious to one of ordinary skill in the art to modify the head worn light support of Herrick in view of Ciesiun with the pad member of Yu in order to provide an acceptable level of comfort to the user.

Claims 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view of Dugmore and further in view of Mosquera (US Pat. 5,893,630). Herrick discloses all of the elements recited in Claim 1 except for a light plate receiving plate opposite the support-mounting face where the light carrying plate is movable towards and away from the light plate-receiving face. However, Mosquera discloses in

Art Unit: 2875

Figures 1-3 a flashlight holding and positioning device where the light holding plate 12 engages with the light plate receiving surface of the base 10 when the apparatus is in the closed position and the light holding plate pivots away from the plate receiving surface. It would be generally obvious to one of ordinary skill in the art to have a surface, which engages or receives the light holding plate in order to better secure the light holding plate to prevent any lateral movement of the light holding plate. And furthermore, Dugmore discloses in Fig 1, a pair of u-shaped notches or fingers (46 & 48) for mechanically securing another plate that has a light attached thereto in order to prevent any unwanted movement of the light holding plate 16 due to vibration or excessive movement by the user. Therefore, it would be obvious to one of ordinary skill in the art to combine the teachings of Dugmore and Mosquera with the light support of Herrick in order to secure the light holding plate in place and prevent any unwanted movement due to vibrations or excessive movement by the user.

Claims 15 & 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view of Diau (US Pat. 4,575,784). Herrick does not disclose the surface mounting face comprising a magnetic material, however Diau discloses in Figure 2 a pair of magnets 4 for securing a working light to the surface of an automobile. This would enable a light support to be easily attached and detached without having to remove fasteners. Therefore it would be obvious to one of ordinary skill in the art to modify the surface mounting face of Herrick by affixing a magnet in order to provide for

Art Unit: 2875

a light support that can be easily attached and detached from a metal surface without having to remove fasteners.

Claims 16, 26-27, & 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view of Allen (US Pat. 3,936,670). Herrick does not disclose a suction element disposed on surface mounting face, but does disclose other equivalent attaching means may be used to attach the base member (Col. 3, Lines 57-60) and Allen discloses a suction element 22 in Figs. 1-2 that is versatile enough to be used in a variety of ways (Abstract) and it is generally obvious to one of ordinary skill that the suction element would enable the easy and fast attachment and detachment of the lighting support to any flat surface. The office construes the suction element to be an anti tipping assembly, which would prevent the light support from tipping over when suction is engaged. Therefore, it would be obvious to one of ordinary skill to modify the teachings of Herrick by adding a suction element as disclosed by Allen to enable an anti-tipping characteristic as well as provide a means for easily attaching and detaching the light support from a horizontal surface.

Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herrick in view of Dugmore (US Pat. 6,457,838). While Herrick does not disclose a an auxiliary element comprising a strapping element, Dugmore discloses in Figure 1 a flashlight adaptor with a base plate 16 which can be attached to a variety of auxiliary plates such as suction cups, plugs, keyed apertures or magnets for mounting them detachably to

Art Unit: 2875

various fixtures (Abstract). Dugmore discloses in Figure 1, one such auxiliary plate being a forehead plate 18, which comprises strap receiving apertures or slots 72. Dugmore discloses the added advantage of having detachable auxiliary plates as allowing the flashlight to be used in a number of different ways on and off the body of the user (Col. 5, Lines 24-27) including using it as a headlamp. Therefore, it would be obvious to one of ordinary skill to modify the light support of Herrick by adding the auxiliary plate comprising strap-receiving apertures 72 of Dugmore in order to provide a light support that can be used in a variety of different ways on and off the body of the user including being used as a headlamp.

***Allowable Subject Matter***

Claims 11, 28-30, 33-34, 36, 38-51, 60, 76-77, 79, 81-83, 86-89, 91 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 93-95 and 97-109 are allowed.

Claim 96 is objected to as being improper in form, but would be allowable if rewritten to correct the form.

The following are the examiner's statements for reason of allowance for the indicated allowable claims.

Art Unit: 2875

With regard to Claims 11 & 60, the prior art does not teach a light support with a notch adjacent to a rib on the base plate at a proximal receiving portion for engaging with the ridges disposed on a cylindrical member.

In regard to Claims 28-30, 86-89 the prior art does not teach or suggest a light support with a pivotally mounted anti tipping members which are leg members and positioned at an opposite side of the base plate relative to the anchoring element and where the auxiliary element is an anchoring element.

In regard to Claims 33-34, & 76, 91 the prior art does not teach or suggest a light support with an auxiliary element wherein the auxiliary element extends from an opposite side of the base plate with respect to the anchoring elements.

With respect to Claims 36, 38-51, & 77, 79, 81-83 the prior art does not teach does not teach a light support with an auxiliary element comprising an auxiliary support mounting element and an auxiliary anchoring element. The prior art does not teach or suggest an auxiliary element with a fastener-receiving aperture or an auxiliary element, which is movably mounted to a base plate or a base plate that defines a cavity for slidably receiving the auxiliary element.

With respect to Claim 93-94, the prior art does not teach nor suggest a light support comprising a base plate with at least one anti-tipping leg mounted to the base plate

With regard to Claims 95-109, the prior art does not teach nor suggest a light support assembly with an auxiliary element movably mounted to the base plate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yamamoto (US Pat. 5,611,510) discloses an auxiliary lamp device with a pivotally attached lamp to a base plate. Jamison (US Pat. 6,481,871) discloses a lamp bracket with has a movably slidable element to a ceiling bracket. Wallach (US Pat. 6,736,531) discloses a reading light with a light support plate pivotally connected to a base plate.

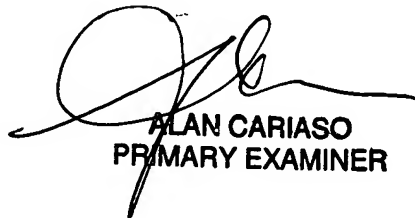
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert May whose telephone number is (571) 272-5919. The examiner can normally be reached between 9 am– 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

Art Unit: 2875

information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ALAN CARIASO  
PRIMARY EXAMINER